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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

Carmen Irene Lobato,

Plaintiff,

v.

Kilolo Kijakazi,
Acting Commissioner of Social Security,

Defendant.¹

No. 2:21-cv-00658-VCF

**UNOPPOSED MOTION FOR EXTENSION
OF TIME TO FILE CROSS-MOTION TO
AFFIRM AND RESPONSE TO
PLAINTIFF’S MOTION FOR REVERSAL
AND/OR REMAND**
(FIRST REQUEST)

Defendant, the Commissioner of Social Security (the “Commissioner”), through the undersigned counsel, hereby requests an extension of time to file her Cross-Motion to Affirm and Response to Plaintiff’s Motion for Reversal and/or Remand in this case. In support of this request, the Commissioner respectfully states as follows:

1. Primary responsibility for handling this case has been delegated to the Office of

¹ Kilolo Kijakazi became the Acting Commissioner of Social Security on July 9, 2021. Pursuant to Rule 25(d) of the Federal Rules of Civil Procedure, Kilolo Kijakazi should be substituted, therefore, for Andrew Saul as the defendant in this suit. No further action need be taken to continue this suit by reason of the last sentence of section 205(g) of the Social Security Act, 42 U.S.C. § 405(g).

1 the Regional Chief Counsel, Region IX, in San Francisco, California (the “Region IX Office”).

2 2. Defendant’s response to Plaintiff’s opening brief is currently due December 29,
3 2021. Defendant has not previously requested an extension of time for this deadline.

4 3. The Region IX Office currently handles all district and circuit court litigation
5 involving the Social Security program arising in Arizona, California, Hawai‘i, Nevada, and
6 Guam.

7 4. The Region IX Office employs 44 staff attorneys, of whom 30 are actively
8 handling civil litigation involving the Social Security program in the eight assigned jurisdictions.
9 Most of the attorneys who handle program litigation cases have additional responsibilities, such
10 as litigating in other practice areas described below, acting as Jurisdictional leads, reviewing the
11 work product of junior attorneys, conducting trainings, and participating in national workgroups.
12 In addition, because of attorneys taking unexpected leave or resigning, the Region IX Office has
13 had to re-assign dozens of cases and substitute in new counsel who have had to absorb these re-
14 assigned cases into their existing caseloads.

15 5. As of November 15, 2021, the Region IX Office has 365 district court briefs due in
16 the next sixty days in the jurisdictions it handles; at least 285 of these are due in the next thirty
17 days.

18 6. In addition to “program” litigation, the Region IX Office provides a full range of
19 legal services as counsel for the Social Security Administration, in a region that covers four states
20 (including the most populous state in the nation) and three territories. These other workloads
21 include employment litigation; civil rights investigations; bankruptcy matters; and requests for
22 legal advice on wide-ranging topics, including Regional office client requests for advice on
23 program issues, employee conduct and performance, reasonable accommodation, hostile work
24 environment, ethics, Privacy Act and disclosure, and torts. Because of the high volume of
25 program litigation cases, the Region IX Office has had to focus its efforts on processing only
26 other workloads that are subject to statutory, regulatory, and court deadlines.

27 7. In good faith and for good cause, the undersigned attorney “of counsel” requests
28 this extension because she will be on medical leave for surgery starting early next week and she

1 will be off work for at least two weeks and will be unable to complete briefing by the current
2 date.

3 8. Due to the volume of the overall workload within the Region IX Office, neither the
4 undersigned attorneys nor another attorney in the Region IX Office anticipate being able to
5 complete briefing by the current due date of December 29, 2021. Therefore, Defendant seeks an
6 extension of 30 days, until January 28, 2022, to respond to Plaintiff's Motion for Reversal and/or
7 Remand.

8 9. This request is made in good faith and is not intended to delay the proceedings in
9 this matter.

10 9. On December 9, 2021, counsel for Defendant conferred with Plaintiff's counsel,
11 who has no opposition to this motion.

12 WHEREFORE, Defendant requests until January 28, 2022, to respond to Plaintiff's
13 Motion for Reversal and/or Remand.

14 Dated: December 11, 2021

Respectfully submitted,

15 CHRISTOPHER CHIOU
16 Acting United States Attorney

17 /s/ Daniel P. Talbert
18 DANIEL P. TALBERT
19 Special Assistant United States Attorney
20 Social Security Administration

21 KRYSTLE S. MCMULLAN
22 Assistant Regional Counsel
23 Of Counsel

24 IT IS SO ORDERED

25 
26 HON. CAM FERENBACH
27 UNITED STATES MAGISTRATE JUDGE

28 DATED: 12-14-2021

CERTIFICATE OF SERVICE

I, the undersigned, am a citizen of the United States and am at least eighteen years of age. My business address is 160 Spear Street, Suite 800, San Francisco, California 94105. I am not a party to the above-entitled action. On the date set forth below, I caused service of the foregoing **UNOPPOSED MOTION FOR EXTENSION OF TIME TO FILE CROSS-MOTION TO AFFIRM AND RESPONSE TO PLAINTIFF'S MOTION FOR REVERSAL AND/OR REMAND** on the following parties by electronically filing the foregoing with the Clerk of the District Court using its ECF System, which provides electronic notice of the filing:

Hal Taylor
haltaylorlawyer@gbis.com

I declare under penalty of perjury that the foregoing is true and correct.

Dated: December 11, 2021

/s/ Daniel P. Talbert
DANIEL P. TALBERT
Special Assistant United States Attorney
Office of the General Counsel

KRYSTLE S. MCMULLAN
Assistant Regional Counsel
Of Counsel